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September 16, 2022

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BY ELECTRONIC FILING

The Honorable Cynthia T. Brown
Chief, Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street S.W.
Washington, D.C. 20423

ENTERED
Office of Proceedings
September 16, 2022
Part of
Public Record

Re: Finance Docket No. 36500, *Canadian Pacific Ry. – Control – Kansas City Southern*

Dear Ms. Brown:

On behalf of Applicants, I write briefly in response to the “Notice of Intent to Participate in Public Hearing” filed by Dead River Company, LLC (“Dead River”) on September 14, 2022 in the above-captioned proceeding. *See* DEAD RIVER-1. Dead River requests time at the public hearing “to address one request for conditions,” which Dead River describes as “Potential service and service-related terms that could be negatively impacted by the merger.” *Id.* However, Dead River never made any request for conditions, and has not otherwise sought to participate in this proceeding until now.

As the Board is aware, the deadline to participate formally in this proceeding has long since passed, as has the deadline to seek to impose conditions on the Transaction. *See* Decision No. 11 (served Nov. 23, 2021), at App’x (establishing Dec. 13, 2021 deadline to file notice of intent to participate in this proceeding, and Feb. 28, 2022 deadline to file comments, protests, requests for conditions, and any other evidence and argument in opposition to the Application). Applicants respectfully submit that allowing Dead River to inject a new request for conditions, via oral statement made during the public hearing, would upend the Board’s procedural schedule and violate due process.

Please contact me with any questions.

Sincerely,

/s/ William A. Mullins

William A. Mullins

cc: All Parties of Record